

filed by its prescribed date, including extensions. The Designated Filer must be a U.S. Trustee. If the U.S. Trustee is an individual, that individual must have a tax home (as defined in section 911(d)(3)) in the United States. At least sixty days before the due date for filing the tax returns for all of the QDOTs, the U.S. Trustee(s) of each of the QDOTs must provide to the Designated Filer all of the necessary information relating to distributions from their respective QDOTs. The section 2056A estate tax due from each QDOT is allocated on a pro rata basis (based on the ratio of the amount of each respective distribution constituting a taxable event to the amount of all such distributions), unless a different allocation is required under the terms of the governing instrument or under local law. Unless the decedent has provided for a successor Designated Filer, if the Designated Filer ceases to qualify as a U.S. Trustee, or otherwise becomes unable to serve as the Designated Filer, the remaining trustees of each QDOT must select a qualifying successor Designated Filer (who is also a U.S. Trustee) prior to the due date for the filing of Form 706-QDT (including extensions). The selection is to be indicated on the Form 706-QDT. Failure to select a successor Designated Filer will result in the application of section 2056A(b)(2)(C).

[T.D. 8612, 60 FR 43550, Aug. 22, 1995]

**§ 20.2056A-10 Surviving spouse becomes citizen after QDOT established.**

(a) *Section 2056A estate tax no longer imposed under certain circumstances.* Section 2056A(b)(12) provides that a QDOT is no longer subject to the imposition of the section 2056A estate tax if the surviving spouse becomes a citizen of the United States and the following conditions are satisfied—

(1) The spouse either was a United States resident (for the definition of resident for this purpose, see § 20.2056A-1(b)) at all times after the death of the decedent and before becoming a United States citizen, or no taxable distributions are made from the QDOT before the spouse becomes a United States citizen (regardless of the residency status of the spouse); and

(2) The U.S. Trustee(s) of the QDOT notifies the Internal Revenue Service and certifies in writing that the surviving spouse has become a United States citizen. Notice is to be made by filing a final Form 706-QDT on or before April 15th of the calendar year following the year in which the surviving spouse becomes a United States citizen, unless an extension of time for filing is granted under section 6081.

(b) *Special election by spouse.* If the surviving spouse becomes a United States citizen and the spouse is not a United States resident at all times after the death of the decedent and before becoming a United States citizen, and a tax was previously imposed under section 2056A(b)(1)(A) with respect to any distribution from the QDOT before the surviving spouse becomes a United States citizen, the estate tax imposed under section 2056A(b)(1) does not apply to distributions after the spouse becomes a citizen if—

(1) The spouse elects to treat any taxable distribution from the QDOT prior to the spouse's election as a taxable gift made by the spouse for purposes of section 2001(b)(1)(B) (referring to adjusted taxable gifts), and for purposes of determining the amount of the tax imposed by section 2501 on actual taxable gifts made by the spouse during the year in which the spouse becomes a citizen or in any subsequent year;

(2) The spouse elects to treat any previous reduction in the section 2056A estate tax by reason of the decedent's unified credit (under either section 2010 or section 2102(c)) as a reduction in the spouse's unified credit under section 2505 for purposes of determining the amount of the credit allowable with respect to taxable gifts made by the surviving spouse during the taxable year in which the spouse becomes a citizen, or in any subsequent year; and

(3) The elections referred to in this paragraph (b) are made by timely filing a Form 706-QDT on or before April 15th of the year following the year in which the surviving spouse becomes a citizen (unless an extension of time for filing

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is granted under section 6081) and attaching notification of the election to the return.

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### § 20.2056A-11 Filing requirements and payment of the section 2056A estate tax.

(a) *Distributions during surviving spouse's life.* Section 2056A(b)(5)(A) provides the due date for payment of the section 2056A estate tax imposed on distributions during the spouse's lifetime. An extension of not more than 6 months may be obtained for the filing of Form 706-QDT under section 6081(a) if the conditions specified therein are satisfied. See also § 20.2056A-5(c)(1) regarding the requirements for filing a Form 706-QDT in the case of a distribution to the surviving spouse on account of hardship, and § 20.2056A-2T(d)(3) regarding the requirements for filing Form 706-QDT in the case of the required annual statement.

(b) *Tax at death of surviving spouse.* Section 2056A(b)(5)(B) provides the due date for payment of the section 2056A estate tax imposed on the death of the spouse under section 2056A(b)(1)(B). An extension of not more than 6 months may be obtained for the filing of the Form 706-QDT under section 6081(a), if the conditions specified therein are satisfied. The obtaining of an extension of time to file under section 6081(a) does not extend the time to pay the section 2056A estate tax as prescribed under section 2056A(b)(5)(B).

(c) *Extension of time for paying section 2056A estate tax—(1) Extension of time for paying tax under section 6161(a)(2).* Pursuant to sections 2056A(b)(10)(C) and 6161(a)(2), upon a showing of reasonable cause, an extension of time for a reasonable period beyond the due date may be granted to pay any part of the estate tax that is imposed upon the surviving spouse's death under section 2056A(b)(1)(B) and shown on the final Form 706-QDT, or any part of any installments of such tax payable under section 6166 (including any part of a deficiency prorated to any installment under such section). The extension may not exceed 10 years from the date prescribed for payment of the tax (or in the case of an installment or part of a deficiency prorated to an installment,

if later, not beyond the date that is 12 months after the due date for the last installment). Such extension may be granted by the district director or the director of the service center where the Form 706-QDT is filed.

(2) *Extension of time for paying tax under section 6161(a)(1).* An extension of time beyond the due date to pay any part of the estate tax imposed on lifetime distributions under section 2056A(b)(1)(A), or imposed at the death of the surviving spouse under section 2056A(b)(1)(B), may be granted for a reasonable period of time, not to exceed 6 months (12 months in the case of the estate tax imposed under section 2056A(b)(1)(B) at the surviving spouse's death), by the district director or the director of the service center where the Form 706-QDT is filed.

(d) *Liability for tax.* Under section 2056A(b)(6), each trustee (and not solely the U.S. Trustee(s)) of a QDOT is personally liable for the amount of the estate tax imposed in the case of any taxable event under section 2056A(b)(1). In the case of multiple QDOTs with respect to the same decedent, each trustee of a QDOT is personally liable for the amount of the section 2056A estate tax imposed on any taxable event with respect to that trustee's QDOT, but is not personally liable for tax imposed with respect to taxable events involving QDOTs of which that person is not a trustee. However, the assets of any QDOT are subject to collection by the Internal Revenue Service for any tax resulting from a taxable event with respect to any other QDOT established with respect to the same decedent. The trustee may also be personally liable as a withholding agent under section 1461 or other applicable provisions of the Internal Revenue Code.

[T.D. 8612, 60 FR 43551, Aug. 22, 1995]

### § 20.2056A-12 Increased basis for section 2056A estate tax paid with respect to distribution from a QDOT.

Under section 2056A(b)(13), in the case of any distribution from a QDOT on which an estate tax is imposed under section 2056A(b)(1)(A), the distribution is treated as a transfer by gift for purposes of section 1015, and any estate tax paid under section 2056A(b)(1)(A) is treated as a gift tax.